THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.10824 of 2006

DATED: 01-10-2007.

Between:

G. Raju

.. PETITIONER

And

The Revenue Divisional Officer,
Nuzvid, Krishna District.

.. RESPONDENT

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.10824 of 2006

ORDER:

This writ petition is filed for a writ of Mandamus declaring the notification issued by the respondent in R.C.A./3080/2006, dated 12.05.2006, in respect of fair price shop No.10 of Nuzvid, Krishna District, as illegal and arbitrary; and consequently direct the respondent to consider the claim of the petitioner for appointment as Fair Price Shop dealer, in the light of the proceedings, dated 29.06.2005, issued by the Director of Civil Supplies.

2. It is stated that originally the father of the petitioner, by name, Sri G. Subba Rao was the Fair Price Shop dealer of Shop No.10 of Nuzvid Town of Krishna District. It is also stated that after the death of his father, the petitioner applied for the said dealership and the said application is still pending consideration before the respondent. The authorities had initiated proceedings to provide provision of transfer of authorization in the name of legal heirs. In that process, the Director of Civil Supplies, by his proceedings dated 29.06.2005, had made proposals for amendment of guidelines issued vide G.O.Ms.No.53 dated 06.10.2003 and directed the District Collector to incorporate certain conditions for transfer of authorization. It is further stated that, thereafter, the District Collector, Krishna, had addressed a letter on 16.08.2005 prescribing certain conditions for amendment of earlier G.O. so as to allow the legal representatives of the dealers as Fair Price Shop dealers and that the Commissioner of Civil Supplies, by his proceedings dated 18.10.2005, had called for certain information from the district authorities to finalize the issue of transfer of

authorization in favour of legal representatives. It is further stated that, in fact, the Government may finalize the issue of transfer of authorization in favour of the legal representatives of the deceased dealers. As such, the application of the petitioner is pending consideration for transfer of authorization in his favour. It is also further stated that in the meantime, the respondent issued the impugned notification dated 12.05.2006 calling for applications to fill-up the vacancy of Fair Price Shop dealer in respect of which the petitioner has been requesting for transfer of authorization. It is further stated that he is entitled for the said dealership being legal representative of the deceased dealer and that, in fact, the district authorities themselves recommended for transfer of authorization in favour of legal representatives and, as such, when the matter is at the stage of disposal, there is no justification in issuing the impugned notification and that if once the third party is appointed as dealer, the petitioner would be put to great hardship. It is also further stated that the respondent is going to conduct interviews on 31.05.2006, which will affect the livelihood of the petitioner. It is further stated that the respondent ought not to have notified the shop since the claim of the legal representative is pending and proceedings are pending before the Government. It is also further stated that even though the petitioner applied for the dealership and even though he belongs to S.C. category, since it is reserved for S.C. Mahila, he is not at all eligible even to participate in the interview. As such, he resorted to approach this Court.

3. The petitioner placed strong reliance on CCS Ref.No.N5/10045/2005, dated 29.06.2005, and the same reads as hereunder:

GOVERNMENT OF ANDHRA PRADESH

Office of the Commissioner of
Civil Supplies, A.P., Hyderabad.

CCS Ref.No.N5/10045/2005 Dt.29.6.2005

Sub: CS – PDS – Transfer of authorization in the name of legal heirs – Views – Requested – Regarding.

Ref: Letter from Chairman F.P. Shop Dealers Welfare Federation of A.P. State Steering Committee, dtd. 22.6.05.

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Attention of the Collectors (CS)/ Chief Rationing Officer, Hyderabad is invited to the reference cited. The Chairman of the F.P. Shop Dealers Welfare Federation of A.P. has requested to transfer the authorizations in the event of death of authorized dealer to the legal heirs.

The request of the Federation has been examined. Keeping in view the practicality and the circumstances explained for transfer of authorization in the name of legal heirs, the request of the Federation deserves amendment in the guidelines issued vide G.O.Ms.No.53, dtd. 6.10.2003.

By such an amendment, it may not be mandatory that the authorization of the deceased dealer shall be transferred in the name of legal heirs as it is. The following conditions may be prescribed while transferring the authorization.

1. Legal heir means wife, unemployed son and unmarried daughter.

2. Any of the member shall not be an earning member.

3. Authorization shall be transferred if the legal heir is, otherwise, qualified as per guidelines.

4. If unmarried daughter is appointed as F.P. Shop dealer, her authorization is liable for cancellation

after her marriage.

5. The family of the deceased dealer shall not be benefited under any Government Scheme.

6. Past performance of the deceased dealer such as

a) Lifting of essential commodities
b) Maintenance of the records/shop timings
c) Distribution of commodities without chagrin of the card holders
d) Relationship with card holders etc.,

7. Financial status to lift the stocks.

8. Antecedents

Therefore, all the Collectors (CS) / Chief Rationing Officer, are requested to examine the feasibility to amend the G.O.Ms.No.53, dtd. 6.10.2003 and offer their remarks immediately.

Sd/- D.Kadmiel/-
DIRECTOR OF CIVIL SUPLIES

4. This Court, while ordering notice before admission on 30.05.2006, granted interim stay as prayed for, for a period of four weeks, and subsequent thereto Rule Nisi was issued on 13.09.2006 and the interim stay already granted on 30.05.2006 was extended until further orders.

5. It is stated that though CCS Ref.No.N5/10045/2005, dated 29.6.2005, had been issued by the Director of Civil Supplies, no decision as such had been taken and, hence, the petitioner has no legal right as such to claim the relief. This Court is not inclined to express any opinion relating to this aspect. But, however, the respondent to take into consideration the proceedings referred to supra

issued by the Director of Civil Supplies and further proceed with the matter in accordance with law.

6. With the above direction, the writ petition is disposed of. No order as to costs.

P.S. NARAYANA, J

1st October, 2007.
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